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15 Amber W. Gunter

16
17 UNITED STATES DISTRICT COURT
18 SOUTHERN DISTRICT OF CALIFORNIA
19

20 Amber W. Gunter,

21 Plaintiff,

22 vs.

23 Pinnacle Recovery, Inc.,

24 Defendant.

Case No.: '15CV1685 BTM MDD

COMPLAINT FOR DAMAGES

FOR VIOLATIONS OF:

**1. THE FAIR DEBT COLLECTION
PRACTICES ACT**

JURY TRIAL DEMANDED

1 Plaintiff, Amber W. Gunter (hereafter “Plaintiff”), by undersigned counsel,
2 brings the following complaint against Pinnacle Recovery, Inc. (hereafter
3 “Defendant”) and alleges as follows:
4

5 **JURISDICTION**

6 1. This action arises out of Defendant’s repeated violations of the Fair Debt
7 Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).
8

9 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28
10 U.S.C. § 1331.
11

12 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where
13 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or
14 where Defendant transacts business in this district.
15

16 **PARTIES**

17 4. Plaintiff is an adult individual residing in Taylorsville, Kentucky, and is a
18 “person” as defined by 47 U.S.C. § 153(39).
19

20 5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

21 6. Defendant is a business entity located in Carlsbad, California, and is a
22 “person” as the term is defined by 47 U.S.C. § 153(39).
23

24 7. Defendant uses instrumentalities of interstate commerce or the mails in a
25 business the principle purpose of which is the collection of debts and/or regularly
26 collects or attempts to collect debts owed or asserted to be owed to another, and is a
27 “debt collector” as defined by 15 U.S.C. § 1692a(6).
28

ALLEGATIONS APPLICABLE TO ALL COUNTS

8. Plaintiff is a natural person allegedly obligated to pay a debt asserted to be owed to a creditor other than Defendant.

9. Plaintiff's alleged obligation arises from a transaction in which property, services or money was acquired on credit primarily for personal, family or household purposes, and is a "debt" as defined by 15 U.S.C. § 1692a(5).

10. At all times mentioned herein where Defendant communicated with any person via telephone, such communication was done via Defendant's agent, representative or employee.

11. Within the last year, Defendant began calling Plaintiff in an attempt to collect a debt.

12. At one point, Defendant harassed Plaintiff by calling four times in one day.

13. Defendant's agent left multiple messages on Plaintiff's voicemail wherein the agent failed to identify his employer and failed to state that Defendant was calling to collect a debt.

14. Over the course of multiple conversations, Defendant's agent spoke to Plaintiff in a rude and offensive manner, calling Plaintiff's husband a "liar" and referring to Plaintiff as "stupid".

1 23. Defendant caused Plaintiff's phone to ring or engaged Plaintiff in
2 telephone conversations repeatedly or continuously, with the intent to annoy, abuse
3 and harass Plaintiff, in violation of 15 U.S.C. § 1692d(5).
4

5 24. Defendant placed telephone calls to Plaintiff without disclosing the
6 caller's identity, in violation of 15 U.S.C. § 1692d(6).
7

8 25. Defendant used false, deceptive, or misleading representations or means
9 in connection with the collection of a debt, in violation of 15 U.S.C. § 1692e.
10

11 26. Defendant's agent communicated with Plaintiff and failed to disclose that
12 he was a debt collector and/or that he was attempting to collect a debt, in violation of
13 15 U.S.C. § 1692e(11).
14

15 27. Defendant used unfair and unconscionable means to collect a debt, in
16 violation of 15 U.S.C. § 1692f.
17

18 28. Defendant attempted collected an amount from Plaintiff that was
19 unauthorized by agreement or law, in violation of 15 U.S.C. § 1692f(1).
20

21 29. The foregoing acts and/or omissions of Defendant constitute numerous
22 and multiple violations of the FDCPA, including every one of the above-cited
23 provisions.
24

25 30. Plaintiff has been harmed and is entitled to damages as a result of
26 Defendant's violations.
27

28 **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendant for:

- 1 A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2
3 B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);
4
5 C. Costs of litigation and reasonable attorneys' fees pursuant to 15 U.S.C.
6 § 1692k(a)(3);
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8 D. Punitive damages; and
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10 E. Such other and further relief as may be just and proper.

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12
13 **TRIAL BY JURY DEMANDED ON ALL COUNTS**

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DATED: July 30, 2015

TRINETTE G. KENT

By: /s/ Trinette G. Kent
Trinette G. Kent, Esq.
Lemberg Law, LLC
Attorney for Plaintiff, Amber W. Gunter